

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FRANK HACKETT

*

*

v.

* Civil No. JFM-04-2130

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WILLIE J. TAYLOR, ET AL.

MEMORANDUM

Plaintiff has brought this action under 42 U.S.C. §1983. He claims that the five defendants, correctional officers with the Maryland Division of Correction, used excessive force against him when they were escorting him to a segregation cell on August 14, 2002. I appointed counsel to represent plaintiff after denying a motion to dismiss or for summary judgment filed by defendants at the outset of the case. Discovery has been completed, and defendants have renewed their motion. The motion will be treated as one for summary judgment and, as such, will be granted.

Defendants have submitted with their motion a video tape of the incident in question. Although plaintiff asserts that the video tape supports his version of events and draws into question the recollections of several of the defendants on certain points, the simple fact of the matter is that the video tape establishes beyond any doubt that excessive force was not used against plaintiff. To the contrary, it demonstrates that the officers acted with complete restraint toward plaintiff who continually abused them with provocative language. Although the video tape does not clearly reflect precisely what happened on the two occasions when plaintiff went to the ground, there is no indication on the video tape that the officers kicked or beat plaintiff when he was down. They necessarily acted with force in order to have plaintiff comply with their directions but the use of force alone, that is not disproportionate, does not give rise to a §1983

claim.¹

A separate order effecting the ruling made in this memorandum is being entered herewith.

Date: August 22, 2007

/s/ _____

J. Frederick Motz
United States District Judge

¹Because I find that the record establishes defendants did not use excessive force, I need not reach their further argument that the injury complained of by plaintiff is *de minimis*.